

CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL 118107

AN ORDINANCE relating to the Pontedera condominium project, amending provisions of Ordinance 122099, which authorized the sale by the City for multifamily development of property known as Dearborn-Hiawatha Parcels 2a & 2b, at Hiawatha Place South and South Charles Street in the I-90 Redevelopment Project area, to HomeSight or its designee; authorizing the Director of Housing to cancel without payment or further performance the remaining balances of certain loans to the purchaser and HomeSight and to accept from the purchaser certain subordinate notes from home buyers; authorizing the Director of Housing to release remaining unsold units from income restrictions and long-term affordability covenants; authorizing the Director of Housing to make down-payment assistance loans to any low-income buyers of units in that property, and modifying Housing Funding Policies adopted in Ordinance 124298 for any such loans; and ratifying and confirming prior acts.

WHEREAS, by Ordinance 122099, the City authorized sale of property known as Dearborn Hiawatha Parcels 2a and 2b to HomeSight, a Washington nonprofit corporation, or its designee for construction of a mixed-use project containing homeownership units, and the City sold the property to 809 Hiawatha Place, LLC ("Purchaser") in 2008, with most of the purchase price deferred under a nonrecourse promissory note that was to be forgiven pro rata through the sale of each of 20 long-term affordable units to a low-income home buyer; and

WHEREAS, improvements identified in Section 3 of Ordinance 122099 as the "Project" have been completed, and at least 86 of the 94 residential dwelling units therein have been sold to home buyers; and

WHEREAS, Ordinance 122099 and the Purchase and Sale Agreement made pursuant thereto contain requirements as to the sale of dwelling units in the Project to low-income households and with long-term affordability restrictions, which requirements have proved difficult to fulfill in their entirety leading into the current housing market; and

WHEREAS, such requirements have limited and delayed the sale of remaining dwelling units in the Project, resulting in the purchaser's and HomeSight's inability to satisfy obligations to Project lenders, thereby risking default; and

WHEREAS, foreclosure by a Project lender would eliminate any low-income requirement and affordability covenant on the remaining unsold units and terminate HomeSight's ability to seek low-income home buyers; and

1 WHEREAS, due to adverse changes in the housing market, the value of the remaining unsold
2 units is substantially less than outstanding indebtedness for construction loans secured
3 with priority over the City's covenant and deed of trust; and

4 WHEREAS, it is not in the City's interest that completed units, including larger units suitable for
5 families with children, remain unoccupied pending foreclosure by senior lenders and
6 ultimate resale without low-income restrictions; and

7 WHEREAS, the Project has successfully provided home ownership to 40 low-income buyers,
8 including 12 in long-term affordable residences, and the Purchaser has sold more than
9 60% of the units to persons of color; and

10 WHEREAS, the City desires to amend certain other terms of Ordinance 122099 and agreements
11 made pursuant thereto in order to facilitate prompt sale of the remaining units in the
12 Project to promote home ownership, and desires to provide for potential down-payment
13 loans to improve the potential for sales to low-income home buyers to occur prior to
14 foreclosure by Project lenders; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The City recognizes that 809 Hiawatha Place, LLC ("Purchaser") has met the
17 conditions for satisfaction of 60% of the amount owed under the promissory note dated May 28,
18 2008 in the original principal amount of \$1,012,200, as amended ("Acquisition Note"). Those
19 conditions were set forth in the related Purchase and Sale Agreement authorized by Section 1 of
20 Ordinance 122099 ("PSA") for the sale by the City of the property known as Dearborn-Hiawatha
21 Parcels 2a & 2b (the "Property"), and provided for satisfaction of 5% of the face amount of the
22 Acquisition Note for each unit in the condominium developed on the Property that was sold to an
23 eligible home buyer subject to covenants for long-term affordability. The Director of the Office
24 of Housing or his designee ("Director") is authorized, without payment and without any further
25 sales of units to eligible buyers or sales subject to long-term covenants, to cancel the balance of
26 the Acquisition Note, which is a non-recourse note now secured by only 8 remaining units and
27 subordinate to deeds of trust securing loans exceeding the estimated value of such units. The
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1 Director is authorized to execute, for and on behalf of The City of Seattle, an agreement with the
2 Purchaser and HomeSight providing for cancellation of the Acquisition Note balance consistent
3 with this ordinance and on such conditions as the Director deems appropriate.

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5 Setion 2. Section 3 of Ordinance 122099 is hereby amended to read in its entirety as
6 follows:

7 Section 3. At time of initial sale of dwelling units to be developed on the
8 Property, at least ((51))42% of the dwelling units in the Property, not including live-work
9 units, must be affordable to, and initially occupied by, buyers with incomes at or below
10 80% of median income. In addition, at least ((20)) 12 of those units must have resale
11 restrictions to help ensure those units remain affordable to low-income households for a
12 term as set forth in Section 3.02 of Attachment A. The housing, together with any
13 additional improvements to be developed on the Property with the approval of the
14 Director and all necessary regulatory approvals, are referred to in this ordinance as the
15 "Project".
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19 Section 3. Notwithstanding any provisions of Ordinance 122099, the Director is hereby
20 authorized to release all remaining unsold residential condominium units in the Property from
21 any deed of trust and covenants in favor of the City in order to permit the prompt sale of those
22 units. The Director is further authorized to release the Purchaser from any obligations under the
23 Covenant for Low-Income Housing dated May 28, 2008, as amended, with respect to all of the
24 Property except for those housing units that have been sold as Long-term Affordable Units as
25 defined therein.
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1 Section 4. The Office of Housing made a supplemental loan to the Purchaser of
2 \$440,000 under a Bridge Loan Agreement dated April 23, 2010 ("Bridge Loan"), which enabled
3 the Purchaser to complete sales to low-income buyers of 9 of the 12 units in the Property that
4 were sold subject to restrictions to assure long-term affordability, while satisfying senior lender
5 requirements. The Bridge Loan effectively funded an average of \$48,889 of the third mortgage
6 seller financing ("residual value loans") that was provided to the 9 buyers of these long-term
7 affordable units in addition to the Office of Housing second mortgage loans of up to \$70,000
8 made to the buyer of each of the 12 units. The residual value loans are evidenced by promissory
9 notes from each buyer to the Purchaser, which were assigned to the City as security for the
10 Bridge Loan. The Director is authorized to accept absolute assignments from Purchaser of
11 these 9 residual value loans in full satisfaction of the Bridge Loan, and to acquire the 9 residual
12 value notes and corresponding loan documents. The provision of subsidy in addition to down
13 payment assistance otherwise allowable under the applicable Housing Levy Administrative and
14 Financial Plan, as described in this Section, is ratified and confirmed.

17 Section 5. As part of the Project workout in 2012, the Office of Housing agreed to
18 provide an additional loan ("Workout Loan") of up to \$1,090,000 to Purchaser and Homesight,
19 on terms that allowed the loan balance to be satisfied pro rata on the "Affordable Sale," as
20 defined, of the 31 units then remaining to be sold to low-income home buyers. The City
21 disbursed \$690,000 of this loan to enable the Purchaser to refinance development costs originally
22 financed by Wells Fargo and to satisfy a condition to certain concessions by Wells Fargo, and
23 disbursed \$50,553.04 to cover the difference between release prices to senior lien-holders and
24 sales proceeds in order to allow sales to be completed. The City acknowledges that the balance
25 owing has been reduced to \$190,110.46 by performance under the loan terms. The Director is
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1 authorized to cancel the remaining balance owing on the Workout Loan on such conditions as
2 the Director deems appropriate, provided that the Purchaser and HomeSight agree to continue to
3 use their best efforts to sell remaining units in the Property to low-income home buyers to the
4 extent consistent with completion of all sales without undue further delay.

5 Section 6. The Director is authorized, in order to facilitate any pending or future sales of
6 unsold units in the Property to low-income home buyers, to provide down payment assistance
7 loans, from existing expenditure authority, consistent with the terms of the Homeownership
8 Program Policies section of the Housing Funding Policies adopted in Ordinance 124298, as they
9 apply to assistance for purchase of homes without resale restrictions, except that for purposes of
10 such loans subsection E.2 of that section is modified to read as follows:
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12 2. In order that single-source subordinate mortgages may be provided for the
13 convenience of borrowers, in lieu of assistance from Levy or other City funds and non-
14 City sources to the same borrower, OH may allow a higher amount of City-funded
15 homebuyer assistance, not to exceed \$100((70)),000, for a borrower that receives
16 assistance made as part of a project or lending program for which a nonprofit lending
17 agency has obtained commitments of non-City homebuyer subsidy funds, but only if all
18 of the following conditions are satisfied:
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21 a. Non-City subsidy funds provided to such project or program must be
22 used for deferred subordinate mortgages or other assistance that increases the
23 ability of Low Income households to purchase a home.

24 b. The average amount of City homebuyer assistance for all eligible
25 households benefited by the program, including buyers who do not receive any
26 City-administered funds, may not exceed \$45,000.
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1 Section 7. The Director is authorized to execute and deliver such additional documents,
2 which may include amendments to the PSA and related covenants, and to take other actions, as
3 may be necessary or appropriate to implement the intent of this ordinance.

4 Section 8. The provision of assistance for the Project and home buyers as described in
5 this ordinance, and any acts after the date of passage and pursuant to the authority of this
6 ordinance prior to the effective date of this ordinance, are hereby ratified and confirmed.
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8 Section 9. This ordinance shall take effect and be in force 30 days after its approval by
9 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
10 shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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1 Passed by the City Council the ____ day of _____, 2014, and
2 signed by me in open session in authentication of its passage this ____ day of
3 _____, 2014.

4 _____
5 President _____ of the City Council
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7 Approved by me this ____ day of _____, 2014.
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9 _____
10 Edward B. Murray, Mayor
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12 Filed by me this ____ day of _____, 2014.
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14 _____
15 Monica Martinez Simmons, City Clerk
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17 (Seal)
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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Office of Housing (OH)	Tom Mack / 4-0339	Jeanette Blankenship / 5-0087

Legislation Title: AN ORDINANCE relating to the Pontedera condominium project, amending provisions of Ordinance 122099, which authorized the sale by the City for multifamily development of property known as Dearborn-Hiawatha Parcels 2a & 2b, at Hiawatha Place South and South Charles Street in the I-90 Redevelopment Project area, to HomeSight or its designee; authorizing the Director of Housing to cancel without payment or further performance the remaining balances of certain loans to the purchaser and HomeSight and to accept from the purchaser certain subordinate notes from home buyers; authorizing the Director of Housing to release remaining unsold units from income restrictions and long-term affordability covenants; authorizing the Director of Housing to make down-payment assistance loans to any low-income buyers of units in that property, and modifying Housing Funding Policies adopted in Ordinance 124298 for any such loans; and ratifying and confirming prior acts.

Summary of the Legislation:

The Council bill authorizes the Director of the Office of Housing to reduce the percentage of affordable homebuyers from 51% to 42%; authorizes the reduction of required units with a long-term affordability covenant (30 years) from 20 to 12; authorizes additional down payment assistance to the 9 homebuyers with long-term affordable covenants and the transfer of these down payment assistance loans from HomeSight to the Office of Housing; and the forgiveness of the additional financing provided to HomeSight as part of the workout in 2012.

This legislation is necessary to continue sales efforts to low-income homebuyers. Without the modifications made in this legislation, foreclosure is likely, which would lead to a market-rate sale and the potential loss of 8 affordable units.

Background:

By Ordinance 122099, the City authorized sale of property known as Dearborn-Hiawatha Parcel 2a and b to HomeSight for construction of Pontedera Condominium project containing 94 residential condominium units + 8 live/work lofts (102 Total). A minimum of 48 units were set aside as affordable to households earning up to 80% median income. Because the entire building met the requirements of the Multifamily Tax Exemption Program, any household with a qualifying income would receive the tax exemption.

Construction of the Pontedera condos was completed in 2010. The City committed \$1.68 million in Housing Levy funds for down payment assistance (matched by the state Housing Trust Fund), to help in total, 48 (including the 20 long-term affordable) low-income first-time homebuyers. Prior to the completion of the development, HomeSight determined that additional down payment assistance was needed to attract low-income buyers to purchase homes with resale restrictions and achieve the long-term affordability goals for the building. OH

subsequently provided an additional bridge loan in the amount of \$440k to help facilitate the sales of the 9 of the 12 long-term low-income homebuyers.

The Pontedera development was completed at the height of the recession and during a time when condominiums in particular, were not sought by households seeking homeownership opportunities. During the first several months of sales, HomeSight made slow but steady progress, selling a few units each month. However, in the summer of 2010, sales started to slow considerably. By the fall of 2011, total sales were at 19 units out of the 102. HomeSight and its primary construction lender, Wells Fargo subsequently entered into workout with little movement to resolution. With little progress toward agreement, in January 2012, Wells Fargo announced it would soon foreclose on the property and leave HomeSight, the City's investment and the existing owners in jeopardy. In the Spring of 2012, the City arranged a two-day session to negotiate a workout solution on the Pontedera. At the end of this negotiation, it was determined that additional investment from the City was needed to off-set the additional development costs related to holding costs HomeSight incurred while carrying vacant and unsold units for an unanticipated period of time.

The Office of Housing invested \$690,000 to pay down a portion of the principal balance of Wells Fargo and LISC construction loans and provided an additional \$400,000 in "gap payments" in the event that future condo sales were sold at prices (given the stressed market) lower than the principal payments (Release Prices) required under the new debt structure by Wells and LISC. To date, HomeSight has drawn \$50,553 against the "gap payment" funding.

The workout included: A reset of the release prices per unit required by both Wells Fargo and LISC based on the current market appraisal. Wells Fargo forgiving the accrued and unpaid interest (\$462,000), reducing the loan's recourse to HomeSight to \$1 million and providing a two year loan extension to May 1st, 2014. LISC agreed to reduce their interest rate from 7.25% to 6%. LISC also agreed to forgive 50% of the accrued and unpaid interest if all the remaining units were sold prior to the May 1st, 2014 maturity date. LISC agreed that depending on how sales went, reducing the release prices to the 2011 appraisal value would potentially leave a \$1.1 million balance remaining on their loan after all units had been sold. After the terms of the workout were negotiated, the loan terms were extended, and the market began to slowly rebound, HomeSight was able to sell both affordable and market-rate units. In the last 2 years, HomeSight has been able to sell all but 94 of the 102 units at the Pontedera (including the 3 currently under contract.) This is a significant achievement given that just two years ago, all was considered lost. The City's development loan allowed HomeSight the additional time necessary to make as much progress as possible in selling units in the building.

 X **This legislation does not have any financial implications.**

Appropriations:

N/A

**Total Regular Positions Created, Modified, or Abrogated through this Legislation,
Including FTE Impact:**

N/A

Spending/Cash Flow:

N/A

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
If this legislation is not enacted, Wells Fargo will likely foreclose on the remaining units losing any possibility of a sale to a low income homebuyer.
- b) **What is the financial cost of not implementing the legislation?**
None. Office of Housing has set-aside Housing Levy funds for down payment assistance should HomeSight succeed in selling any of the remaining units to low income homebuyers.
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None.
- e) **Is a public hearing required for this legislation?**
No.
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- g) **Does this legislation affect a piece of property?**
Yes.
- h) **Other Issues:** None.

List attachments to the fiscal note below:

None.



City of Seattle
Edward B. Murray
Mayor

May 13, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill authorizing amendments to the terms of sale of property to HomeSight. The property is the Pontedera Condominium located at 827 Hiawatha Place S.

By Ordinance 122099, the City authorized sale of property known as Dearborn-Hiawatha Parcel 2a and 2b to HomeSight for construction of Pontedera Condominium project containing 94 residential condominium units + 8 live/work lofts (102 Total). A minimum of 48 units were set aside as affordable to households earning up to 80% median income. Because the entire building met the requirements of the Multifamily Tax Exemption Program, any household with a qualifying income would receive the tax exemption.

Construction of the Pontedera condos was completed in 2010 at the height of the recession and during a time when condominiums in particular, were not sought by households seeking homeownership opportunities. HomeSight struggled to sell units. By the fall of 2011, total sales were at 19 units out of the 102. HomeSight and its primary construction lender, Wells Fargo subsequently entered into workout. In the spring of 2012, the City agreed that additional investment from the City was needed to off-set the additional development costs related to holding costs HomeSight incurred while continuing to sell units.

In the last 2 years, HomeSight has been able to sell all but 94 of the 102 units at the Pontedera. The City's development loan allowed HomeSight the additional time necessary to make as much progress as possible in selling units in the building.

The Council bill authorizes the reduction of the percentage of affordable homebuyers from 51% to 42%; authorizes the reduction of required units with a long-term affordability covenant (30 years) from 20 to 12; authorizes additional down payment assistance to the 12 homebuyers with long-term affordable covenants and the transfer of these down payment assistance loans from HomeSight to the Office of Housing; and the forgiveness of the additional financing provided as part of the workout in 2012.

Thank you for your consideration of this legislation. Should you have questions, please contact Laurie Olson at 615-0995.

Sincerely,

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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